

REMARKS

Claims 1-5 and 7-10 were pending before the examiner. The examiner has rejected all of the claims.

In regards to a continuation application from this application (serial number 09/654,339, filed on September 8, 2000, and entitled, "Method of Processing Payment on a Network of Computers ...") numerous phone consultations were held with examiner Cosimano from April 8 to April 10, concerning the same reference cited in the above identified Office Action. Since the reference is identical, the applications have the same examiner, and the applications are related, the following summarizes the content of these examiner interviews.

The discussion related to the Communications Week article and what it was able to enable. Applicant raised the issue on the two copyright dates indicating that it was impossible to confirm when any portion of the article was written. The examiner dismissed this concern. No resolution on the copyright date was accepted by either party.

The discussion also related to the standards of the industry on the date of the article. Applicant stated that the only true way that information was passed over the Internet at the time of the article was via e-mail. The examiner accepted this fact. Applicant then argued that those of "ordinary skill in the art" at the time of article (the earliest date available) would not contemplate or be able to withdraw information within an e-mail for use elsewhere. Applicant argued that even today, extrapolating a sixteen digit number (a credit card number) from an e-mail is extremely difficult due to the many ways (blanks, dashes, or a continuous number) together with the placement of the number within the e-mail; and that the way information was handled at the time was through an intermediate human who extracted the information from an e-mail.

The examiner did not commit either way on this proposition. Subsequently a FAX was sent to the examiner containing language which clearly establishes that this operation is done in an "automatic" fashion without any human intervention. The examiner and applicant have not had a chance to discuss this FAX.

No final resolution to the interviews was obtained.

The acceptance of the drawings filed earlier is noted.

Applicant has reviewed the specification and drawings for any additional errors. None were found.

The examiner's amendment to claim 1 and claim 7 are noted and accepted.

The examiner has rejected claims 1-5 and 7-10 under 35 U.S.C. 103(a) citing the Communications Week article. The examiner states,

“The Communications week article does not disclose that the intermediary receives amount data from a second remote computer, that is merchant, however, since:

- A) the approving entity, such as a bank or credit card company requires the amount data to be specified before issuing an authorization indicia;
- B) a merchant requires the correct payment of merchandise being purchased; and
- C) the customer may alter the amount information in the customer’s advantage.”

The examiner’s observations are correct. What the examiner has failed to appreciate is the fact that the Communications Week article describes a system which does not do away with the human for the processing operation.

As noted earlier, this reference has been discussed by phone interview with the examiner. In that interview, the examiner agreed that the technique of the time was to use phone and e-mail as the methodology of communications.

The very reference that the examiner is using supports this type of communication when it discusses the current state of the art:

“... an on-line customer types in his or her credit card number or phones it into the merchant, often using a toll-free telephone number.” (Page 2, lines 1-2, underline added)

The article deals with the sole issue of “security” (“For a commercial user, ... And security is its biggest concern.”, lines 1-2 of the article; “... About half of all credit card fraud is initiated by the merchant”, page 2, line 3). To satisfy the security concerns, the article plugs an intermediary into the process which:

“...intermediaries take the credit card information, secure the authorization from the credit card issuer and pass that verification along to the merchant. That way, the merchant never has the credit card number itself.” (Page 2, lines 4-6)

The reference's own brevity makes the article easily mis-interpreted by the examiner now that the invention is fully known. The examiner though must look at the state of the art and ability at the time of the reference.

It is clear from the reference's description of how the "merchant" handles the transaction that there is a human operator who receives the information "from the phone" or via an e-mail. Accurately and automatically extrapolating a sixteen digit number with expiration date from an e-mail is a daunting task which is not even done today, much less at the dawn of the Internet. At the time, the human operator was the only accurate method of obtaining the credit card number and its expiration date.

As example, a human can easily recognize all of the following numbers as being the same, but a computer would have extreme difficulty:

1234 5678 9123 4567 exp 01/05	1234-5678-9123-4567 exp 01/05
1234 5678 9123 4567 exp 1/05	1234-5678-9123-4567 exp 1/05
1234 5678 9123 4567 exp 01/5	1234/5678/9123/4567 exp 01/5
1234 5678 9123 4567 exp 01-05	1234/5678/9123/4567 exp 01/05
1234 5678 9123 4567 exp 1-05	1234/5678/9123/4567 exp 1/05
1234 5678 9123 4567 exp 01-5	1234/5678/91234567 exp 01/5

The possibilities are endless. (Not even considering is there one space or two spaces or three spaces between the numbers).

This fact was made clear when an implementation of an embodiment of the invention was described to a banker in the field of credit card processing. At one point the implementation was described as being totally automatic without any people and the banker observed, "you mean except for the ladies taking the number on the phone."

Further, common sense indicates that if the "intermediary" was operating "without human intervention", as the examiner suggest, then the intermediary could easily take the information from the Net; but, the Intermediary seems (according to the examiner) to create parallel systems for the task (one by phone and the other automatic).

This does not make economic sense.

As stated earlier, it is the brevity of the article that permits any possibility to be "read into" the article after the situation is known, yet there is no supporting information to fill in the article's many holes with facts. Would this article be able to "teach or suggest" something that even when read now eludes "one of ordinary skill in the art"?

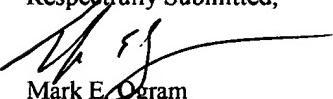
Clearly not.

Independent claims 1 and 7, by this amendment, have been amended to include language which clearly shows that the present invention works "without human intervention".

It is respectfully submitted that claims 1-5 and 7-10, as now amended, are not taught or suggested by the Communications Week article.

Based upon the above, it is respectfully submitted that claims 1-5 and 7-10, as now amended, are allowable and should be advanced to issuance.

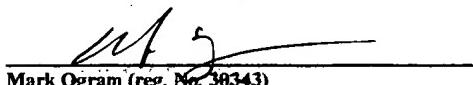
Respectfully Submitted,


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Date: 5/20/03

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I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on May 20, 2003.


Mark Ogram (reg. No. 30343)

Date 5/20/03